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February 5, 2015

VIA EMAIL and ECF

The Honorable Andrew L. Carter, Jr.
United States Courthouse
40 Foley Square, Room 435
New York, New York 10007

Re: *In re: North Sea Brent Crude Oil Futures Litig.*, 13-md-02475-ALC

Dear Judge Carter:

We represent the Brent Derivative Trader Plaintiffs (“Plaintiffs”) in the above-referenced action and write respectfully to provide Your Honor with additional information regarding the Stipulation and Proposed Order that Plaintiffs submitted to the Court today (the “Stipulation”). The Stipulation is attached hereto as an exhibit. This Stipulation resolves Plaintiffs’ pending pre-motion conference letter requesting permission to move for leave to amend the Amended Consolidated Class Action Complaint (“Complaint”) to substitute affiliates of Defendants Royal Dutch Shell plc (“RDS”) and Morgan Stanley, and to add an affiliate of Defendant Phibro Trading LLC (“Phibro Trading”). [ECF No. 262].

Plaintiffs have met and conferred with the relevant and proposed defendants.¹ Based on the representations set forth in the Stipulation, Plaintiffs have agreed to make limited changes to the Complaint that do not require re-briefing of most of the issues in the motions to dismiss that are already under the Court’s consideration. According to the Stipulation, Plaintiffs will:

1) drop RDS as a defendant and substitute Shell Trading and Shipping Company Limited (“STASCO”), an affiliate of RDS, that Plaintiffs believe is the proper entity responsible for the conduct alleged against RDS in the Complaint;

2) drop Morgan Stanley as a defendant and substitute MSCGI, an affiliate of Morgan Stanley, that Plaintiffs believe is the proper entity responsible for the conduct alleged against Morgan Stanley in the Complaint; and

3) add Phibro Commodities Ltd. (“Phibro Commodities”), an affiliate of Phibro Trading, which together with Phibro Trading, Plaintiffs allege engaged in certain conduct previously

¹ The relevant and proposed defendants, as defined herein, are: Phibro Trading and Phibro Commodities (“Phibro entities”); RDS, STASCO and Shell Trading US Company (“STUSCO”) (collectively the “Shell entities”); and Morgan Stanley and Morgan Stanley Capital Group Inc. (“MSCGI”) (collectively the “Morgan Stanley entities”).

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alleged against solely Phibro Trading in the Complaint.²

Accordingly, Plaintiffs have attached as Exhibit A to the Stipulation a proposed (limited) Second Amendment to the Complaint, which substitutes STASCO and MSCGI as Defendants, instead of RDS and Morgan Stanley, respectively, and adds Phibro Commodities as a Defendant.

As a result of this compromise, the parties to the Stipulation have eliminated certain issues which are currently before this Court on the pending motions to dismiss. Some new or replacement briefing is anticipated by the Stipulation. STASCO and STUSCO intend to provide the Court with a supplemental motion and supporting 15-page brief to replace the 15-page moving brief that was filed on behalf of RDS and STUSCO [ECF No. 227]. STASCO and STUSCO intend this brief to clarify which issues are still relevant, and make additional arguments in light of the amendments to the Complaint including a jurisdictional challenge as to STASCO, which is a new defendant in the case. Phibro Commodities, another new defendant, also intends to provide the Court a short supplemental jurisdictional motion to dismiss. Plaintiffs would then have an opportunity to respond to these motions, and Defendants to reply. In addition, Morgan Stanley and MSCGI believe (and Plaintiffs agree) that the currently existing briefing filed on the Motion to Dismiss of Morgan Stanley [ECF No. 233] will be very confusing as Morgan Stanley is being substituted out of the case. Therefore MSCGI and Plaintiffs intend to provide the Court revised briefs (opening, opposition and reply) reflecting the substitution of MSCGI for Morgan Stanley as the moving party, dropping mooted arguments and possibly making some necessary non-substantive language changes.

We appreciate Your Honor's consideration and further request that the Court take the hearing scheduled on February 9, 2015, regarding Plaintiffs' request for a pre-motion conference to address this matter off of the Court's calendar. All parties to this action and the related Landowner Plaintiff's action consent to this request.

Respectfully submitted,

/s/ David E. Kovel
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cc: All Counsel of Record (by email)

² Nothing in the Stipulation is an admission by the relevant defendants and proposed defendants as to the validity of Plaintiffs' beliefs or the allegations in the Complaint or proposed amended complaint.